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09/618,497	07/18/2000	Yu Zheng	PAT-1238-DIV	9055

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EXAMINER

YIP, WINNIE S

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/618,497
Filing Date: July 18, 2000
Appellant(s): ZHENG, YU

MAILED
OCT 17 2005
GROUP 3600

Raymond Sun
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 21, 2006 appealing from the Office action mailed February 8, 2005.

UN

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct except the claimed inventions in the independent claims "71 and 73" should be "1 and 73".

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

D341,407	McLeese	11-1993
Re 35,571	McLeese	7-1997
5,592,961	Chin	1-1997
5411046	Wan	5-1995

The following ground(s) of rejection are applicable to the appealed claims:

A. Claims 1-3 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over McLeese (D341,407) in view of Chin (US Patent No. 5,592,961).

McLeese '407 (see drawings shown below) teaches a collapsible structure comprising a single first base panel (A) having a foldable frame members (C) partially being covered by a flexible material (D) through a sleeve (S1) which is extend along an outer periphery of the flexible material (D), a single second upper panel (E) having a foldable frame members (F) partially covered by a flexible material (G) through a sleeve (S2), the second upper panel having opposite end edge portion defined from the cross section line (X-X), at least one interconnecting fabric piece (H) coupling each sleeve at each end edge portion of the second upper panel (E) to the opposite sides of the outer periphery of the first base panel (A) such that the first lower and second upper panels (A, E) being coupled together to define an interior space therebetween, and the second upper panel (E) has a front edge (I) defining an opening for ingress and egress to the interior space, wherein McLeese is considered to have the end edges of the second upper panel extending outside of the periphery of the first panel in a vertical direction as claimed. On the

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other hand, alternatively, McLeese does not define the opposite end edges of the second upper panel (E) each being coupled to the outer periphery of the first base panel by single interconnecting piece that causes the opposite end edges of upper panel spaced apart and extending beyond the outer periphery edge of the base panel in the horizontal direction as applicant expected. However, Chin teaches a collapsible structure comprising a plurality of panels including an upper panel (14) and lower side panels (12) each having a fabric material (66, 30, respectively), a sleeve extending along the outer periphery thereof, a foldable frame member (18, 28, respectively) is covered by the sleeve respectively long the outer periphery of the panel, wherein the upper and lower panels having edges being coupled together by a interconnecting fabric piece (64) (See Fig 6 bellow) such that the opposite end edges of the upper panel (14) being positioned space apart and extending outside of the periphery of the lower panel. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the collapsible structure of McLeese having the opposite end edges of the upper panel being coupled to the opposite sides of the lower panel by larger interconnecting fabric pieces as taught by Chin, as old and well known connecting concept, as disclosed by the applicant by alternative embodiment show in Figs, 1A and 16, at a location, such that the edges of the upper panel can be spaced apart secured to and also extended beyond (outside/upward) of the edge of the base panel to provide an suitable interior space area as desired.

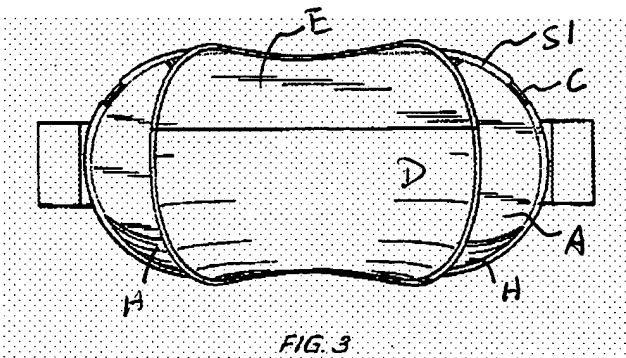
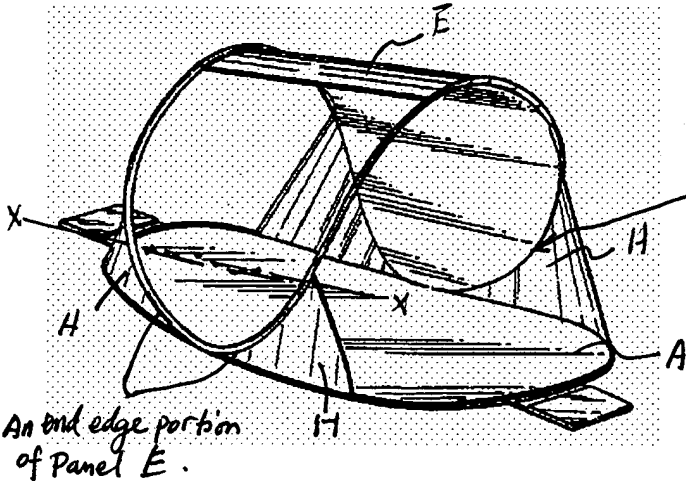


FIG. 3

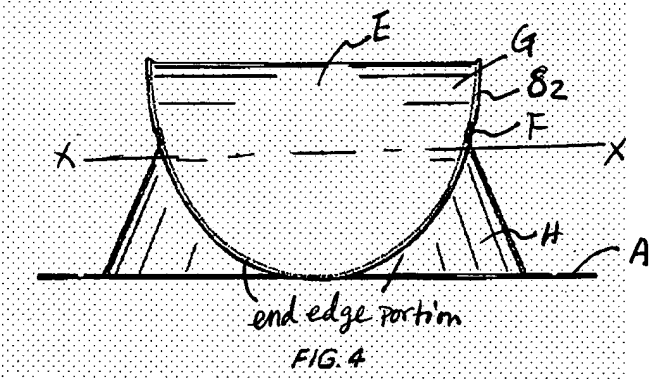
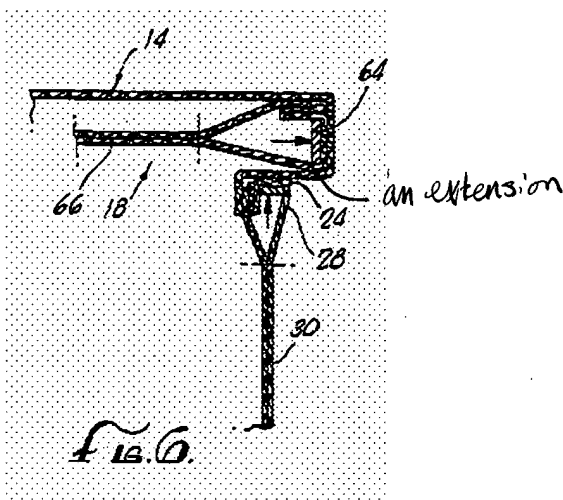


FIG. 4



B. Claims 1-3, 71 and 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over McLeese (Re. 35,571) in view of Wan '046.

McLeese '571 teaches a collapsible structure comprising a single first base panel (14) having a foldable frame members (14) being covered by a flexible material (68) through a sleeve which is extend along an outer periphery of the flexible material (68), a single upper panel (16 or 18) , See Figs 1 or 22, having a foldable frame members (28) partially covered by a flexible material (40) through a sleeve, wherein the second panel (30) having two opposite end edges (22) being straight portions, said the straight portions of the second upper panel (22) being coupled to the opposite sides of the outer periphery of the first base panel (14) by an interconnecting fabric loop (50) respectively which is considered to be a fabric piece as claimed (see Fig. 2, col. 5, lines 14-20), and the second upper panel (40) has a front edge (30) defining an opening by zippers (62) for ingress and egress to the interior space (see Fig. 2) . Although McLeese '571 does not define the opposite end edges of the second upper panel (16) each being coupled to the opposite sides of the outer periphery of the first base panel by an interconnecting piece that causes the opposite end edge of upper panel spaced extending outside of the outer

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periphery edge of the base panel as claimed, Wan teaches a collapsible structure comprising a plurality of panels each having foldable frame member (40) covered by a flexible material (30), the panels having a sleeve (41) extending along an outer periphery, the sleeve of the outer periphery having straight edge portion of adjacent panels being coupled together by an interconnecting fabric piece (32), wherein the interconnecting fabric piece provides a flexible connection between adjacent panels and define a larger interior area between the panels. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the collapsible structure of McLeese '571 having the straight portions of the opposite end edges of the upper panel being coupled to the straight portions of opposite side edges of the lower panel each by a larger interconnecting fabric piece instead of a loop for coupling the edges of two panels together as taught by Wan, as a selected desire connecting concept, as disclosed by the applicant by alternative embodiment show in Figs, 1A and 16, at a location, such that the edges of the upper panel can be spaced apart secured to and also extended beyond (inside or upward) of the edge of the base panel to provide a larger interior space area between the panels as desired.

(10) Response to Argument

A. In response to appellant's argument with respect to claims 1-3 and 71 being rejected under 35 U.S.C. 103(a) as being unpatentable over McLeese (D341,407) in view of Chin (US Patent No. 5,592,961) that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or

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motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both references to McLeese and Chin both teach in a same art of a collapsible structure comprising panels each formed by a foldable frame covered by a flexible material along a sleeve and being coupled together to form an obvious configured enclosed area. McLeese teaches the collapsible structure comprising an upper panel having opposing end edges coupled to opposite side periphery of a base panel by interconnecting pieces as claimed. Although, appellant argues that McLeese does not define the opposing edges of the upper panel being coupled to the base panel by an interconnecting fabric piece such that the opposing edges of the upper panel extending beyond the outer periphery of the base panel as claimed, notice the application is not under U.S.C. 102 of the statute. Chin is used as a teaching reference to teach one edge portion of one panel would be coupled to an outer periphery/or edge of another panel with an interconnecting fabric piece such that the opposing edges of upper panel would extend beyond the outer periphery/edge of the other panel as claimed due to the flexible properties of the frames of the panels and the interconnecting fabric pieces. Chin solves the same problem as defined by appellant. Further, regard to appellant's argument that the interconnecting pieces (H) of McLeese's structure do not couple the end edges of the upper panel but rather couple to the side edges of the upper panel, it is examiner's position that the interconnecting fabric piece (H) of McLeese's structure is broadly considered to couple the upper panel along the end edge of panel because of, first an end edge of a panel is not just limited to an end point of the end portion of the panel, but would be the end portion at end of the panel such as broadly defined from the cross

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section line (X-X) as show above in Fig 4 by the examiner, and second appellant does not claims the interconnecting fabric piece covering the entire end edge of the upper panel.

Therefore, the opposite end edges of McLeese 's collapsible structure are considered to be connected to the side periphery/or edge of the base panel by the interconnect fabric pieces as claimed.

Further, regard to applicant's argument that the end edge of McLeese's structure are rounded at a curved point which would not be practical or feasible to be coupled by an interconnecting piece since one would then have a very thin piece of material that connects the rounded end edge, this is not persuasive. Notice, appellant does not claim specific size of the interconnecting fabric piece, so "an interconnecting fabric piece" is not necessary to be "a think piece" as appellant argued. Second, Chin clear shows the side panel (30) having a rounded end edge being connected to the periphery of the top panel (14) by an interconnecting fabric piece (64). It is well known in the art that using a fabric piece to connect the sleeves of two curved edges of panels together would have been obvious to one ordinary skill in the art as taught by Chin. In addition, A reference of US Patent NO. 6,595,227 to Le Gette et al. (not used for rejection) teaches, as well known in the collapsible art, that a foldable upper panel (300) would have a sleeve of a curved end edge connected to a sleeve of base panel (320) by an small fabric piece to allow two ends of the upper panel extending outer of the periphery of the lower panel. Therefore, appellant's argument is not deemed persuasive. Therefore, the rejection under 35 U.S.C. 103(a) as being unpatentable over McLeese in view of Chin is still deemed proper and ground.

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B. In response to appellant's argument with respect to claims 1-3, 71 and 73 being rejected under 35 U.S.C. 103(a) as being unpatentable over McLeese '571 in view of Wan '046 that there two references cannot be combined because their respective teaching would not lead a person skilled in the art to provide the structure in claims 1 and 73, and the combination is improper, it is not deemed persuasive. Again, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both references to McLeese and Wan both teach in a same art of a collapsible structure comprising panels each formed by a foldable frame covered by a flexible material along a sleeve and being coupled together to form an obvious configured enclosed area. McLeese teaches the collapsible structure comprising an upper panel having opposing end edges coupled to opposite side periphery of a base panel by interconnecting pieces as claimed. Wan is used as a teaching reference to teach using an interconnecting fabric piece connecting two sleeve of the edges of panels together to define an extension therebetween to define the collapsible structure with larger interior space as desired. To discuss whether or not that Wan's structure having an interconnecting piece causes the opposite end edges of an upper panel to extend outside the outer periphery edge of the base panel is not irrelevant, other whiles our rejection would be rejected under U.S.C. 102 status to Wan. It would one ordinary skill in the art at the time the invention was made to modify the collapsible structure of McLeese with an interconnecting fabric piece instead of a connector to connect two

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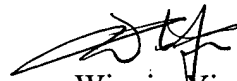
edges of the panels together as taught by Wan such that due to the flexibility of the fabric piece, the upper panel of McLeese would be inherently extend outward or upward from the outer periphery of the base panel to provide equally well a collapsible structure with a extension as claimed.

For the above reasons, it is believed that the rejections should be sustained.

(11) Related Proceeding(s) Appendix



No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Respectfully submitted,



Winnie Yip
Primary Examiner
Art Unit 3637

wsy
October 12, 2005

Conferees: 
Peter Cuomo
Lanna Mai 
Winnie Yip 